IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

ARBITRATION PETITION NO. 29 OF 2005

Rekha Telecom Services Private Limited ... Petitioner

Versus

Tata Teleservices (Maharashtra) Limited, formerly known as "Huges Telecom (India) Pvt. Ltd." ... Respondent.

Mr. S.M. Oak with Mr. A. Joshi for the Petitioner

Mr. O.P. Soni with Mr. P.D. Jain for the Respondent.

CORAM: V.G. PALSHIKAR, Ag.C.J.
DATE: JANUARY 13, 2006.

P.C.:-

1. By this petition, the petitioner, M/s. Rekha Telecom Services Private Limited, has contended that there was an agreement between the petitioner and the respondent, Tata Teleservices (Maharashtra) Limited, regarding the Agreement of Franchisee. Clause 24 of this Agreement specifically provides for arbitration in relation to disputes between the parties. A notice as contemplated by the Agreement was, therefore, issued, but no response was received within the stipulated time. Hence, this petition under Section 11 of the Arbitration and Conciliation Act, 1996.

2. Heard the parties.

3. It is the contention of the respondent, Tata Teleservices (Maharashtra) Limited, that factually, there is no dispute, and the claims made by the petitioner are imaginary. Whether the claim is genuine or not is something which can be decided by the Arbitrator. Existence of the clause for arbitration is not denied. The fact that any dispute arising out of the contract can go to the Arbitrator is also not disputed.

4. In the circumstances, in my opinion, it would meet the ends of justice if Arbitrator is appointed to consider the rival claims of the parties to this petition. I shall nominate Mr. Justice B.V. Chavan, a former Judge of this Court, to be the Arbitrator in this cause. He shall be at liberty to decide the terms and conditions on which the arbitration shall be taken up by him. The petition is accordingly disposed of.